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## **REQUIREMENTS**

The local department will take immediate action to correct all TCA payment irregularities (underpayments and overpayments.) The payment error can be corrected by establishing a Benefit Error Group on the CARES system.

## **OVERPAYMENT CATEGORIES**

There are three types of payment errors:

- A. Agency Error (AE) – occurs when the local department’s failure to act upon information provided by the customer. Examples of this kind of error could include:
  1. Failure to take timely action on a change that was reported by the customer.
  2. The local department incorrectly calculates the household income or deductions.
  3. The local department incorrectly interprets policy.
- B. Customer Error (CE) – occurs when the customer fails to provide correct information through either a misunderstanding or an unintended error. Examples of this kind of error could include:
  1. The household unintentionally fails to provide the local department with correct or complete information.
  2. The household unintentionally fails to report a change in its circumstances.

Note: Customer Error is sometimes used for suspected fraud cases until fraud is established either through adjudication, administrative disqualification hearing or signed disqualification waiver.
- C. Intentional Program Violation (IPV) – occurs when an official determination of fraud is rendered either through the conviction in a Federal or States court, Administrative Disqualification or a signed Waiver of Administrative Disqualification Hearing. Examples of this kind of error could include:
  1. Obtaining or attempting to obtain benefits by willfully making false statements for the purposes of establishing cash assistance, maintaining benefit levels, increasing the TCA amount or preventing a reduction in cash assistance.
  2. Misrepresenting, concealing or withholding facts in an attempt to receive benefits to which a person or family is not entitled.

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NOTE: Do not attempt to collect an overpayment on a potential IPV if this action might jeopardize the IPV case. You should complete the Benefit Error Group on CARES but **do not** proceed with any collection action until the suspected IPV is resolved.

## **ESTABLISHING A CLAIM**

- A. Discovery date means the date the potential claim is initially detected as a possible overpayment.
- B. Establishment date means the date that the initial demand letter (CARES Notice 18) is sent to the household.

## **UNDERPAYMENT PROCESS**

- A. The local department will correct an underpayment promptly.
- B. If appropriate, issue a one-time-only payment equal to the total amount of the underpayment from the date of discovery through the creation of an underpayment Benefit Error Group on CARES.
- C. A supervisor must approve all underpayment BEGs.
- D. Do not count lump sum payments issued to correct underpayments as countable income or assets for TCA in the month paid or in the subsequent month.
- E. Underpayments may be used to offset an existing overpayment.

## **OVERPAYMENT PROCESS**

- A. The local department will establish an overpayment against any household that received more benefits than they were eligible to receive.
  - 1. Do not establish either a CE or AE claim when an overpayment occurred because the local department failed to ensure that the household signed an application form or was determined eligible in the wrong project area.
  - 2. Review the case for possible referral as an IPV. If IPV is suspected, follow local office referral procedures.
- B. The case manager's first task is to correct the ongoing month's TCA benefit amount by entering the correct information into CARES as soon as possible after discovering that a payment error has occurred.

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1. Process food stamp payment errors according to the procedures outlined in the Food Stamp Manual.
2. Handle Purchase of Care (POC) payment errors according to local procedures and the POC Desk Guide.
3. If ineligible individuals received TCA benefits, check to see if the customer was eligible for any other Medical assistance category of coverage. When MA eligibility cannot be established in any category, refer the case for a possible MA overpayment. Do not enter MA overpayments on CARES. Complete the DHMH 1169 form and mail it to:

Chief  
Division of Utilization and Eligibility Review  
Department of Health and Mental Hygiene  
201 West Preston Street  
Baltimore, MD 21201

## **CALCULATING THE AMOUNT OF OVERPAYMENT**

- A. The local department will use CARES to determine the total amount of the household's overpayment. Do not establish and calculate the overpayment amount manually except to illustrate the calculation for a fair hearing or cases that are over three years old. In cases that require a manual calculation, use the FIA Overpayment Calculation form (sample form attached.) Refer to the Overpayment Desk Guide for a detailed description of how to establish a CARES overpayment.
  1. Prior to calculating an overpayment, attempt to obtain all of the verifications that document the household's circumstances for each month of the payment error.
  2. Determine the correct amount of benefits for each month that the household received an incorrect payment.
  3. Do not apply earned income deductions to that part of earned income that the household failed to report in a timely manner (See special procedures outlined in the CARES Overpayment Desk Guide.)
  4. Subtract the correct amount of benefits from the benefits actually received.
  5. The overpayment amount is equal to the difference between the monthly TCA received and TCA the household should have received based on the corrected information.
- B. Establish a begin date for the overpayment by determining the first month the overpayment occurred.

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1. The overpayment will begin the first month the unreported change could have been made following adverse action time.
2. If the customer reported the change in a timely manner, but the local fails to act on the change, the first overpayment month is the month the change would have been effective had the agency acted timely.
  - Allow the customer 10 days to provide verification. If the customer does not provide the needed information and you cannot obtain the information through collateral contact with a primary source, use secondary sources such as Eligibility Verification System (IEVS) or Maryland Automated Benefits System (MABS) computer matches to determine income.
  - If you use a secondary verification source such as MABS, only quarterly income is listed. Since the client would not provide monthly income verification, you may use a prorated share of the MABS quarterly income to calculate the overpayment.

Ex. MABS shows that the last quarter of 1999's total earnings is \$2,400  
 $\$2,400 \div 3 = \$800$  Count \$800 of earnings for 10/99, 11/99 and 12/99

3. CARES will ensure that the eligibility policy and tables used in the calculations are correct, based on the date the overpayment occurred.
4. CARES calculates the recoupment in order to leave the household member with 90% of the payment standard for their size assistance unit, counting all applicable income as follows:
  - $TCA\ Benefit = (TCA\ Payment\ Standard \times .90) - Gross\ Income$
  - If the case is active, CARES will determine the recoupment amount if the CARES payment plan source code is EC – Eligibility Calculation on the PLAN screen. You can select other plan types when the method of recovery has been court ordered or you have reached a negotiated repayment agreement with the customer. See the CARES desk guide for detailed plan information.
5. CARES can only calculate an overpayment for the prior three years. If an overpayment extends beyond that time, the case manager must complete a manual calculation.
6. Use the FIA Overpayment Calculation form. (sample form attached) Do a separate set of calculations for each error month using the figures that were in effect when the error occurred.
7. Inform the customer of the right to a hearing regarding the method used by the local department to determine the amount of over or underpayment and the corrected grant.

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8. CARES automatically mails a Request of Hearing DHR/FIA 334 form with the Repayment of TCA Notice 18 it sends to the customer after the supervisor approves the Benefit Error Group.
9. If the customer asks for a hearing or returns the signed request for a hearing within 10 days of the reduction notice date, the LDSS can continue benefits without reduction until the hearing decision is reached.
  - Some customers choose not to accept the reduction because they want to avoid paying back the incorrect benefit amount if the hearing upholds the local department's action.
  - If the local department action is upheld, calculate the total overpayment. If benefits continued to be paid at an incorrect amount while waiting for a hearing decision, remember to include that time period in the total overpayment calculation.
  - Customers whose cases were closed when an overpayment was discovered may request a hearing regarding the existence, amount or method of repayment of the overpayment.

## **INITIATING COLLECTION ACTION**

- A. Begin collection action on all Client Error and Agency Error claims unless the overpayment is offset through underpaid benefits.
- B. If the overpayment is the result of an IPV disqualification, begin collection action against the household unless the customer has already repaid the overpayment.

NOTE: Repayment of an IPV is usually determined by the Court, Administrative Disqualification Hearing or by agreement between the prosecutor and the accused individual.

- C. CARES will begin collection action after the supervisor approves the CARES BEG Plan. The system will generate a CARES Notice 18 Repayment of TCA notice that gives the following information:
  1. The reason for the claim
  2. The amount owed
  3. The period of time the claim covers
  4. Any offset of benefits that was used to reduce the overpayment amount
  5. A statement that if the overpayment is not repaid, the case will be referred to the Central Collection Unit for collection action.

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6. A statement of the household's right to a fair hearing
  7. The method for repayment and renegotiating the repayment amount
- D. Begin collection action for unpaid or partially paid CE or AE overpayments. Complete a Benefit Error Group (BEG) and create a repayment plan on CARES. Refer to the Overpayment Desk Guide for instructions on how to create a BEG and a repayment plan.
- Note: If your plan is approved during the last 5 working days of the month, CARES will reduce the case without allowing for adverse action. Since BEG/Plan activity is usually done at the same time, staff should **avoid BEG/PLAN CARES processing during the end-of-the-month adverse action time period.**
- E. When an IPV ruling is made on a case that had a partially paid or unpaid CE Benefit Error Group (BEG), you must start IPV collection action. Complete the CARES Notice to Household of a Disqualified Individual and update the IPV plan. Refer to instructions in the CARES Overpayment Desk Guide.

## **METHODS FOR COLLECTING PAYMENT**

- A. The local department may collect a household's payments to repay an overpayment by using any of the following methods:
1. Lump Sum – The household repays the entire overpaid amount in one payment or a portion of the debt is repaid.
  2. Installments - The household chooses a monthly payment amount to repay the debt.
    - For active cases the amount may not be less than the amount that would be paid through allotment reduction. See the reduction section below.
    - Households may use their Electronic Benefit Transfer (EBT) account to repay the partial or full overpayment amount.
    - Customers who choose to repay by installments or lump sum should send all payments to the local finance office.
  3. Grant Reduction – This method is used for active TCA cases. The monthly grant is reduced by a set amount until the entire debt is repaid.
    - CE, AE and IPV - The grant is reduced by the OP reduction formula.  
(Gross income + TCA benefit) – (TCA payment standard x 0.90) = grant paid.

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- The OP reduction formula allows FIA to reduce the monthly benefit by a much greater amount than we could in the past. If the customer has earnings, we can recoup up to the total grant amount.
  - Repayments are not deducted from an initial month's grant. Repayment begins with the ongoing month.
- B. Entering EC (Eligibility Computation) in the Payment Plan Src field and A in the Payment Plan Type field on the PLAN screen allows CARES to automatically calculate the correct grant recoupment percentage.
- C. On closed cases, CARES will generate a demand notice 18 and allow a 30-day response time. The notice gives the overpayment reason, the total overpayment amount and a choice of payment methods.
1. Give the customer up to three opportunities to select a repayment plan.
  2. The customer may choose to make a partial or total lump sum payment to offset the overpayment or make arrangements with the local department to pay back the amount in monthly installments
  3. CARES can automatically track time periods. If a customer does not respond to the first notice 18 within 30-days, CARES sends a second notice 18. If the customer does not respond within 30-days, CARES sends a third and final demand notice 18.
  4. If the customer does not respond to the third demand notice within 30-days, refer the closed case to the Central Collection Unit.

## **COLLECTION OF MULTIPLE CLAIMS**

- A. When there are multiple claims against a household, CARES determines the claim that gets repaid first by age and claim type.
- B. CARES recoups same type claims sequentially and applies the correct monthly repayment rate. CARES can apply the correct recoupment percentage once the plan is completed.
- C. When a household has multiple overpayments, CARES starts recoupment on the oldest overpayment. If there are different types of overpayments, CARES applies the following hierarchy:
1. Intentional Program Violation
  2. Client Error
  3. Agency Error

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- D. If CARES is already recouping on a prior BEG, it will continue to collect on that BEG until it is paid-in-full. At that point, CARES applies the hierarchy to any other BEGS.

## **FAILURE TO COMPLY WITH THE REPAYMENT SCHEDULE**

- A. On closed cases, when the household fails to make a payment by the repayment schedule date, CARES will send a Failure To Repay Notice 43 reminding the customer of their failure to meet the terms of the agreement and explaining the consequences.
- B. If the customer does not respond to the Notice 43 within 30-days, CARES sends the supervisor an alert to refer the case to CCU.
- C. A claim is delinquent when the household has not made a payment by the due date, or the household has not signed and returned a repayment agreement.
- D. The delinquent status remains in effect until full payment is made, grant reduction is started or the department negotiates a new repayment schedule.
- E. The fiscal office should notify FIP staff when a household pays less than the amount specified in the repayment agreement. The local office should contact the customer to discuss the situation. If the customer can no longer meet the terms of the current agreement the local office can negotiate a new agreement.

## **ABATE COLLECTION ACTION**

Abate is the legal term meaning to stop action when specific criteria are met. Only the Central Collection Unit has this authority. CCU abates claims for non-participating households as follows:

- A. A claim that is found invalid by a hearing, administrative disqualification hearing or court decision.
- B. A claim where all adult household members have died and the department does not intend to collect from the estate.
- C. Any claim the department determines is not cost effective to collect.
- The local office must keep a manual record on “not cost effective abatements.”
  - If an adult household member reapplies, the local must reinstate collection activities on the outstanding debt.



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## **HOUSEHOLD REPAYMENT RESPONSIBILITY**

- A. The local department will initiate collection action against the household that has been overpaid.
- B. All adult members of a household that has been overpaid are responsible for repaying the debt.
- C. If there is a change in the household composition, start recoupment action against any household that contains a member who was an adult household member at the time that household was overpaid.

## **RE-APPLICATION AND UNPAID CLAIMS**

- A. When a household reapplies, do an RMEN inquiry to see if there are any outstanding overpayments. If so, use the same assistance unit number and restart the recoupment.
- B. When a household reapplies in a different LDSS, reopen the assistance unit using the same AU number. Do an RMEN inquiry to see if there is an outstanding overpayment. If an outstanding overpayment exists, ask the prior LDSS for copies of the following and restart recoupment:
  - 1. Claim payment records
  - 2. Any CCU referral forms
  - 3. Any disqualification material and demand notices
- C. CARES will automatically start the recoupment process when an approved repayment is on the system. If no plan exists for the overpayment, one must be approved before recoupment can begin.
- D. If the LDSS referred the debt to Central Collection Unit, notify CCU that the case is reopening. Use the DBFP-CCU 33A Debt Adjustment Form to let CCU know that the LDSS is starting the recoupment process.
- E. Do not reissue demand letters regardless of the length of time the case was closed or the case was reopened in a different LDSS.

## **CENTRAL COLLECTION UNIT**

The Central Collection Unit is part of the Department of Budget and Management. This unit is responsible for collecting debts owed to the State. When you refer a case to CCU, they control it. Do not change the case status, debt balance etc. unless you notify CCU via the DBM-CU 33A.

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## **REFERRING CLAIMS TO CCU**

- A. Refer all delinquent claims to CCU.
- B. Make the referral within 10 days after receiving alert 511 or 512 "Refer to CCU."
- C. Make referrals by completing the DBFP-CCU-33-97 CCU Debt Referral Form for each case that is referred.
- D. CCU will contact the LDSS to request additional information.
- E. Batch referrals and send them to CCU each month.
- F. Include a cover letter that lists all referred cases by name, AU number and debt amount for each assistance unit referred. Also give the total number of assistance units and total all debts listed on the form.
- G. Make referrals to:

Central Collection Unit  
Department of Budget and Management  
300 West Preston Street Room 500  
Baltimore, Maryland 21201

## **CENTRAL COLLECTION MONTHLY REPORTS**

- A. The LDSS will receive a monthly report from CCU through DHR's Budget and Finance. The report shows the amount collected for each case the LDSS referred.
- B. The report lists each account name, AU number and CCU identification number.
- C. The LDSS finance office posts all payments listed on the report to CARES. They also credit each payment to the claim records maintained by the LDSS.
- D. The CCU report shows the payments received, adjusted or abated during the calendar month.

## **LOCAL DEPARTMENT RESPONSIBILITY AFTER CCU REFERRAL**

- A. After CCU sends collection material to a household that has an unpaid debt, the household may call the LDSS with questions concerning repayment.
- B. Tell the household that all payments should be made directly to CCU even though the LDSS may accept payment.

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- C. Let the customer know that any repayment agreement established between the household and LDSS has no bearing on the CCU repayment schedule.

### **CCU REQUEST FOR DOCUMENTATION**

Normally, the DBFP-CCU-33-97 is the only documentation needed for the majority of cases referred to CCU. In some situations, CCU may want additional material. They will contact the LDSS and request any other documentation that is required.

### **MONTHLY REPORT OF TCA RECOUPMENT/RECOVERY ACTIVITY**

- A. The LDSS submits a DHR/FIA 162 Monthly Report of TCA Recoupment/Recovery Activity to detail the local department's activities relating to household claims. The LDSS will attempt to reconcile the recoupment detail report with its CARES and manual systems.
- B. A DHR/FIA 162 form is due to DHR's Division of Budget and Finance by the 15th day after the end of each month. Submit a DHR/FIA 162 even if no claims are collected.
- C. The LDSS accounts for claims collection by including TCA repayments and the value of allotments recovered or offset through restoration of lost benefits.
- D. Do not consider the value of benefits not issued during periods of disqualification as recovered allotments. Do not use the value of these benefits to offset an IPV claim.
- E. When a household makes a payment that is more than the remaining overpayment balance, the LDSS fiscal unit repays the overpaid amount as soon as possible. They cut a check for the difference between the amount paid and the balance owed. The fiscal unit mails the customer the check and an explanation letter.

### **CLAIMS DISCHARGED THROUGH BANKRUPTCY**

The LDSS will:

- A. Act on behalf of the State in any bankruptcy proceeding against a bankrupt household that owes a TCA debt.
- B. Possess any rights, priorities, interests, liens or privileges and will participate in any distribution of assets.
- C. Have the authority to file objections to discharge, petitions for revocation of discharge and any other documents, motions or objections.

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## **ACCOUNTING PROCEDURES**

CARES maintains the primary system for monitoring claims against households. The accounting system must document the following:

- A. The circumstance that resulted in a claim;
- B. The procedure used to calculate the claim.
- C. The method used to collect the claim.
- D. The circumstances that resulted in the suspension or termination of collection action.
- E. Unrestored amounts used to offset a claim owed by the household.
- F. Those households that failed to make installment payments on their claims.
- G. The amounts of money collected in payment for each claim.

## **EXAMPLES:**

1. Mr. Gateway began working January 3 and received his first pay on January 10. He reported it on January 12, within 10 days. A Notice of Adverse Action (NOAA) was sent and the change was processed for February. There is no overpayment for January since Mr. Gateway reported his income in a timely manner and February was the first month the benefits could be reduced.
2. Ms. Mac began working February 13 and received her first pay on February 20. She reported the income on February 23, within the 10 days. The NOAA was sent the same day. However, there were less than 5 working days to the end of the month so the reduction went into effect in April. The February and March income is not an overpayment because Ms. Mac reported her income in a timely manner and April was the first month the benefit could be reduced.
3. Ms. Compaq began working March 15 and received her first pay on March 29, but did not report her income until June 10. The effective date of the change was July 1. If the income had been reported within 10 days (by March 29), the benefit would have been reduced in May. There is no overpayment in March and April because the first month in which the benefit could have been reduced was May. The overpayment is calculated using Ms. Compaq's income in May and June.
4. An employment screening found that Ms. Dell was employed. She was given 10 days on March 15 to provide income verification and failed to do so. Her employer was contacted, but their internal rules prevented them from providing income verification. Other direct sources were also tried, but to no avail so the case was closed. MABS, a secondary verification source, was then used in May when Ms. Dell reapplied. It showed \$900 for the first quarter. The overpayment

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was divided into equal amounts for each of the three months in the quarter. Thus, \$300 was applied toward Ms. Dell's needs in January, February, and March. Based on the first quarter earnings and her one pay stub for April, new monthly income and the overpayment repayment amount reduced the April benefit also.

### **ADDITIONAL INFORMATION**

- Food Stamp Manual
- Medical Assistance Manual
- POC Desk Reference
- The following section in the TCA Manual
  - Application Section — Verification, Fraud, Decision Notices, Computer Matches
  - Financial Eligibility Section — Income - Unearned, Self Employment, Income - Earned, Income - Deductions, Child Care Expenses
  - Interim Change
  - Adverse Action — Adverse/Timely Notice
  - Intentional Program Violations
  - Sanctions — Fraud & Fraudulent Misrepresentation